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UNCLAS SECTION 01 OF 02 BRASILIA 001894

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STATE PASS TO USTR
EB/CIP/TCFINTON
STATE PASS TO FED BOARD OF GOVERNORS FOR ROBITAILLE
USDOC FOR 4332/ITA/MAC/WH/OLAC/JANDERSEN/ADRISCOLL/MWAR D
USDOC FOR 3134/ITA/USCS/OIO/WH/RD/DDEVITO/DANDERSON/EOL SON
FCC FOR ETALAGA
USTR FOR JOHANTHAN MCHALE, PAUL NEUREITER

E.O. 12958: N/A

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SUBJECT: BRAZIL - TELECOMMUNICATIONS LICENSING CONDITIONS

REF: STATE 114687

1. Post submits the following in response to the Reftel questions regarding licensing conditions in the telecommunications sector in Brazil. On July 14, EconOff met with the Brazilian Telecommunications Regulatory Agency (ANATEL) General Manager for Tariffs and Prices and Acting General Manager over Competition, Vanderlei Campos, and ANATEL Regulatory Specialist, Jorge Ruiz.

2. ANATEL administers two types of licenses for fixed-line services -- concessions and authorizations -- each of which have their own contractual obligations. When Brazil privatized its telecommunications sector during the 1990s, the state monopoly was divided into three large companies - Brasil Telecom, Telemar, and Telesp --, each of which bought (an expensive) concession under a General Licensing Plan over one of three geographic telecommunications regions. (The concessions expire at the end of 2005.) To promote competition, a "mirror" company was also originally created in each of the three regions. In addition, "authorizations" are granted by ANATEL to companies that wish to provide fixed line telephone services to increase competitiveness in the concessions market. Although the telecommunications infrastructure remained under the control of the concessionaires, the GOB had hoped that wireless technology would allow for a competitive playing field for the newer companies. The baby companies of the original parastatal have continued to dominate the market, however, according to Campos, and competition has been "weak." Nevertheless, a number of telecommunication companies have received authorizations to operate in Brazil and compete with the larger companies, especially in the long-distance market.

3. ANATEL charges a fixed licensing fee of R\$ 9,000 (US\$ 3,900) which corresponds to ANATEL administrative expenses. The amount of the fee does not change depending on the geographic scope, type of fixed-line service, or whether the service is facilities-based or not. The amount can be readjusted annually, however, by the ANATEL Board of Directors, based on variation of the IGP-DI inflation index. Ruiz noted that the fixed licensing fee does not include use of radio frequencies by the telecommunications companies, which are licensed separately.

4. ANATEL does not have capitalization or bonding requirements for the companies that request authorization to compete with the concessionaires. ANATEL regulates and audits the concessionaires, which have public service obligations to provide fixed-line services in their respective geographic regions.

5. The GOB has build-out investment requirements for the concessionaires, but not the companies operating under authorizations. The build-out requirements are part of the GOB project called "Universalization," which is defined as the "right of access to telecommunications by every person and institution regardless of their location or socioeconomic condition." The Universalization plan includes specific goals for the concessionaires. For example, in terms of build-out requirements, the concessionaires are required by the end of 2005 to have installed at least one public telephone in every locality in which there are more than 100 residents. Concessionaires construct and maintain the infrastructure as a reversible public good. In contrast, the private companies which operate under authorizations have no obligation to expand their service network and retain ownership of whatever infrastructure they install. Although it is possible for companies to rent the lines of another company, Campos said that is extremely rare; as a result, there are some cities with two separate fixed-line telecommunications infrastructures.

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